



## FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807  
(916) 322-5660 • Fax (916) 322-0886

May 17, 2002

Ms. Jan Wasson  
13016 Mindanao Way #4  
Marina Del Rey, CA 90292

**Re: Your Request for Informal Assistance  
Our File No. I-02-048**

Dear Ms. Wasson:

This letter is in response to your request for informal assistance regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### FACTS

You are the treasurer of Wesson for Assembly (a committee formed for the 2000 election) and of Wesson for Assembly 2002. Assemblymember Herb Wesson became speaker of the Assembly in February of 2002. You are requesting advice regarding the candidate to candidate transfer provisions of Proposition 34 contained in section 85305. Your questions concern the applicability of the \$3,000 transfer limit to statewide candidates and to pre-Proposition 34 committees. Specifically, you question whether Proposition 34 permits a pre-2001 candidate committee to accept unlimited contributions from candidates for elective state office and whether a candidate for elective state office may make unlimited contributions to a candidate for statewide office.

### APPLICABLE LAW

Section 85305 of Proposition 34 applies to contributions of funds from state candidates to other state candidates. Section 85305 provides as follows:

---

<sup>1</sup> Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations. Because you are asking general questions about the campaign provisions of the Act, we are treating your request as one for informal assistance. Informal assistance does not provide the immunity provided by an opinion or formal written advice. (Section 83114; Reg. 18329(c)(3), copy enclosed.)

“A candidate for elective state office or committee controlled by that candidate may not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301 [\$3,000 per election].”

“Elective state office” means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the Legislature, member elected to the Board of Administration of the Public Employees’ Retirement System, and member of the State Board of Equalization. (Section 82024.)

Portions of Proposition 34 do not become applicable to statewide candidates until after the November 6, 2002 election. Section 83, an uncodified section of Proposition 34, as amended by Stats. 2001, Ch. 241, effective September 4, 2001, provides as follows:

“This act shall become operative on January 1, 2001. However, Article 3 (commencing with Section 85300), except subdivisions (a) and (c) of Section 85309, Section 85319, Article 4 (commencing with Section 85400), and Article 6 (commencing with Section 85600), of Chapter 5 of Title 9 of the Government Code shall apply to candidates for statewide elective office beginning on and after November 6, 2002.”

Under section 83, the contribution limitations of Article 3 (except the \$1,000 and \$5,000 online reports required by section 85309(a) and (c) and section 85319 concerning returning contributions), the expenditure ceilings of Article 4, and the ballot pamphlet provisions of Article 6 of Chapter 5 of the Act do not apply to candidates for “statewide elective office” until November 6, 2002. “Statewide Elective Office” means “the office of the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction and member of the State Board of Equalization.” (Section 82053, added by Proposition 34.)

## QUESTIONS AND CONCLUSIONS

**Question 1. May a candidate committee formed for a pre-2001 election, i.e., a pre-Proposition 34 committee such as Wesson for Assembly 2000, accept contributions from other candidates for elective state office in excess of the limits set forth in section 85301(a)?**

Section 85305 limits the making of contributions by state candidates to other state candidates, not the acceptance. Under section 85305, other candidates for elective state office *may not make* contributions to any other candidate for elective state office in excess of the \$3,000 limit set forth in section 85301(a). Though section 85305 does not prohibit a pre-Proposition 34 committee from *accepting* such contributions, it generally prohibits other candidates for elective state office from *making* contributions to the committee in excess of \$3,000.

Because of the delayed effective date of section 83, the limits of section 85305 do not apply to statewide candidates until November 6, 2002. Thus, section 85305 prohibits legislative candidates and their committees from making a contribution to Wesson for Assembly 2000 in excess of \$3,000, but does not prohibit statewide candidates from doing so until November 6, 2002. However, any contributions accepted by Wesson for Assembly 2000 for use in the 2002 legislative elections would have to be transferred into a 2002 committee and would be subject to the \$3,000 contribution limits of section 85301(a) through the transfer and attribution rules of section 85306 and regulation 18536.

**Questions 2. and 3. May a pre-Proposition 34 committee, i.e., Wesson for Assembly 2000, contribute more than \$3,000 per election to a candidate for statewide office prior to November 6, 2002?**

**May a committee controlled by a candidate for state elective office in 2002, i.e., a post-Proposition 34 committee such as Wesson for Assembly 2002, contribute more than \$3,000 per election to a candidate for statewide office prior to November 6, 2002?**

As discussed above, section 85305 provides that the amount a committee controlled by a candidate for elective state office may contribute to any other candidate for elective state office is limited to \$3,000. The limits of section 85305 became operative as to legislative candidates and committees, such as the Wesson for Assembly committees, on January 1, 2001. Under section 85305, a committee controlled by a legislative candidate, whether pre or post-Proposition 34, may not make a contribution to any other candidate for elective state office in excess of \$3,000 per election. Therefore under section 85305, the Wesson for Assembly 2000 or 2002 committees could not make a contribution in excess of \$3,000 to a candidate for statewide office.

You have been advised that “[b]ecause section 85301(a) expressly excludes contributions to candidates for statewide office from the \$3,000 per election limit, a candidate-controlled committee (pre or post-Proposition 34) may contribute an unlimited amount to a candidate for statewide elective office.” We disagree with this interpretation. Section 85301(a), copy enclosed, sets the limit on contributions from persons to candidates for the state Senate and Assembly at \$3,000 per election. Section 85301(a) only “excludes” contributions to candidates for statewide office from the \$3,000 per election limit, because the contribution limit for candidates for statewide offices and the Governor are set at \$5,000 and \$20,000 per election respectively, in subdivisions (b) and (c) of section 85301. As we have discussed, section 85305 does not incorporate all the language specifying the applicability of the section 85301(a) limits to legislators. It just incorporates the \$3,000 monetary limit set forth in section 85301(a) as the limit applicable to transfers between all state candidates. The \$3,000 limit of section 85305 will apply uniformly to candidates for all elective state offices (after November 6, 2002), i.e., an Assembly member may only contribute \$3,000 per election to a candidate for Governor and vice versa. The \$3,000 limit of section 85305 became applicable to contributions made by legislative candidates and committees on January 1, 2001.

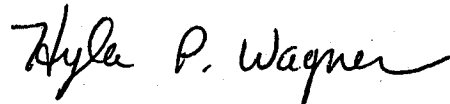
Next, you state that "even if the limit set forth in 85301(a) did apply to transfers to candidates for statewide elective office, the provisions of article 3 of which section 85301(a) and 85305 are a part, do not apply to candidates for statewide office until November 6, 2002. (Proposition 34, § 83.) A candidate for statewide office may therefore accept unlimited contributions until November 6, 2002."

As noted in response to your first question, section 85305 prohibits a candidate for state elective office or a committee controlled by a candidate for state elective office from *making* any contribution to any other candidate for elective state office in excess of \$3,000. The limitations of section 85305 are on the maker of the contributions, not the recipient. Thus regardless whether candidates for statewide office may accept unlimited contributions until November 6, 2002, the \$3,000 limit of section 85305 is currently in effect for contributions made by legislative candidates and committees to other candidates for legislative and statewide office.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca  
General Counsel



By: Hyla P. Wagner,  
Senior Counsel, Legal Division

Enclosure

HPW:jg  
I:\AdviceLtrs\02-048